

NORFOLK, VIRGINIA

ACTION OF THE COUNCIL

TUESDAY, APRIL 24, 2012 – 7:00 P.M.

Prayer offered by Councilman Paul Riddick, followed by the Pledge of Allegiance.

President Fraim moved to dispense with the reading of the minutes of the previous meeting.

Motion adopted.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

PUBLIC HEARINGS

PH-1

JOINT PUBLIC HEARING with the CITY PLANNING COMMISSION, scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **SUBURBAN PARK SHOPPING CENTER BY HRE REALTY, LLC**, a) to amend the *General Plan of Norfolk, 1992*, to change the land use designation of a parcel located on the southeast corner of **East Little Creek Road and Granby Street and bounded to the east by Virginian Drive and the south by Louisiana Drive** from Low Density Residential to Commercial/Office, b) for a change of zoning from R-7 (One-Family), Conditional C-2 (Corridor Commercial), C-3 (Retail Center), and Conditional C-3 districts to Conditional C-3 district, and c) for two Special Exceptions to operate Commercial Drive-Throughs one on an outparcel and one with a retail center.

The following Planning Commissioners were present: Lisa Chandler, Richard Diamonstein, Earl Fraley Jr., Syble Stone, and Martin Thomas Jr.

The following proponents spoke: Howard Gordon, 1700 Dominion Tower, Chris Perry, 2220 Dominion Tower, and Pete Burkheimer, 3351 Stoneshore Road, Virginia Beach.

Thereupon, the Planning Commission unanimously approved the staff recommendation to approve the amendments.

ACTION: Yes: Lisa Chandler, Richard Diamonstein, Earl Fraley Jr., Syble Stone, and Martin Thomas Jr.

No: None.

Thereupon, An Ordinance entitled, “An Ordinance to amend the General Plan of Norfolk, 1992, **SO AS TO** change the land use designation for property located on the Northwest Corner of **Virginian Drive and Louisiana Drive** from Low Density Residential to Commercial/Office,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective May 25, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-1-1

An Ordinance entitled, “An Ordinance to rezone property located at the **Southeast Corner of East Little Creek Road and Granby Street** from R-7 (One-Family Residential) District, Conditional C-2 (Corridor Commercial) District, C-3 (Retail Center Commercial) District, and Conditional C-3 (Retail Center Commercial) District to Conditional C-3 District,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-1-2

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of a Commercial Drive-Through Facility on property located at the Southeast Corner of **East Little Creek Road and Granby Street**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-1-3

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of a Commercial Drive-Through Facility on property located at the **Southeast Corner of East Little Creek Road and Granby Street**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-1A

JOINT PUBLIC HEARING with the CITY PLANNING COMMISSION, scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **HARRIS TEETER**, a) for a Special Exception to operate a Retail Goods Establishment (operating after midnight) and b) for a Special Exception for an Establishment for the Sale of Alcoholic Beverages for Off-Premise Consumption on property located at the **southeast corner of East Little Creek Road and Granby Street**.

Rebecca Luce, 409 San Antonio Blvd, spoke in favor of this matter.

The following Planning Commissioners were present: Lisa Chandler, Richard Diamonstein, Earl Fraley Jr., Syble Stone, and Martin Thomas Jr.

Thereupon, the Planning Commission unanimously approved the staff recommendation to approve the amendments.

ACTION: Yes: Lisa Chandler, Richard Diamonstein, Earl Fraley Jr., Syble Stone, and Martin Thomas Jr.

No: None.

Thereupon, An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit a **Retail Goods Establishment** to operate after midnight on property located at **Southeast Corner of East Little Creek Road and Granby Street**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-1A-1

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the sale of alcoholic beverages for off-premises consumption on property located at the **Southeast Corner of East Little Creek Road and Granby Street**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-2

PUBLIC HEARING scheduled this day pursuant to action of the Council on March 27, 2012 under the State law, public notice having been inserted in the local press by the City Clerk, on the application of the **City Planning Commission**, to amend Chapter 7 “Industrial Districts” of the **Zoning Ordinance of the City of Norfolk, 1992**, to eliminate minimum lot width and lot area for Special Exception uses in Industrial Districts, allowing the standard lot sizes to govern,” was introduced in writing and read by its title.

Thereupon, An Ordinance entitled, “An Ordinance to amend and reordain Sections 7-1.3, 7-2.3, 7-3.3, 7-4.3 and 7-5.3 of the Zoning Ordinance of the City of Norfolk, 1992, SO AS TO remove specific requirements for minimum lot area and minimum lot width for Special Exception uses in Industrial Zoning Districts,” was introduced in writing and read by its title,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-3

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on revoking a Use Permit previously granted on February 15, 1983 on property numbered **333 Waterside Drive** and known as “the Waterside.”

ACTION: Continued to May 8, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

CONSENT AGENDA

C-1

Letter from the City Manager presenting a recommendation of the **City Planning Commission** on the application of **VISITORS OF OLD DOMINION UNIVERSITY**, for closing vacating and discontinuing portions of the public right-of-way: a) a 10’ alley, 530 feet, more or less, west of Hampton Boulevard, from the northern line of 43rd Street northwardly 102.43 feet, b) a portion of Kenova Avenue from the southern line of 48th Street southwardly 105 feet and c) a portion of a 0.14 acre parcel along the southern line of 49th Street between Bluestone Avenue and Hampton Boulevard.

ACTION: City Clerk authorized to advertise for a public hearing on May 22, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

C-2

Letter from the City Manager presenting recommendation of the City Planning Commission on the application of **NRHA, a)** for a change of zoning from R-12 (Medium Density Multiple-Family) district and PPRO (Park Place Residential Overlay) district to C-2 (Corridor Commercial) district on property bounded by Monticello Avenue and Church Street, E. 26th Street and E. 27th Street; property fronts 624 feet, more or less, along the northern line of E. 26th Street, and 210 feet, more or less, along the eastern line of Monticello Avenue; property also fronts 456 feet, more or less, along the southern line of E. 27th Street, extending 270 feet, more or less, along the western line of Church Street; premises numbered 213-307 E. 27th Street, 2601/2615 Church Street, 212-312 E. 26th Street, and b)for the closing, vacating, and discontinuing of Armistead Avenue from the northern line of E. 26th Street northwardly to the southern line of E. 27th Street.

ACTION: City Clerk authorized to advertise for a public hearing on May 22, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

C-3

Letter from the City Manager presenting a recommendation of the **City Planning Commission** on the application of **DON R. CHRISTIAN**, for a rezoning to remove conditions on property zoned conditional C-2 (Corridor Commercial) district, on property fronting 75 feet, more or less, along the eastern line of Aspin Street, beginning 150 feet, more or less from the southern line of South Cape Henry Avenue and extending southwardly; premises numbered 1576 Aspin Street.

ACTION: City Clerk authorized to advertise for a public hearing on May 22, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

REGULAR AGENDA

R-1

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain Section 2 of Ordinance Number 44,227 regarding a \$566,220.00 grant award from the **Virginia Department of Emergency Management** for the Fiscal Year 2010 Port Security Grant Program **SO AS TO** change from dive equipment to equipment and to add training and warranty costs to the grant funding purposes,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-2

Letter from the City Manager and an Ordinance entitled, “An Ordinance authorizing the conveyance to the City of Norfolk by the **Visitors of Old Dominion University** of certain property located in the City of Norfolk, Virginia for right of way realignment on 49th Street, and authorizing the City Manager to accept the deed on behalf of the City,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-3

Letter from the City Manager and an Ordinance entitled, “An Ordinance permitting **139 Riverview, L.L.C.** to encroach into the right of way at 139 Riverview Avenue, 35’ approximately with a paved fire lane, loading area, two wooden enclosures and bollards approximately 7’0” for dumpster and recycle areas,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-4

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting a \$15,000 Grant Award for the **Virginia Department of Emergency Management 2011 State Homeland Security Grant Program** to purchase hazardous materials equipment for the Department of Fire-Rescue,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-5

Letter from the City Manager and a Resolution entitled, “A Resolution approving the exercise by the **Economic Development Authority** of the **City of Norfolk** (the “**Authority**”) of powers conferred by the Industrial Development and Revenue Bond Act and Ordinance Nos. 26,565, 27,524 and 40,357 of the City of Norfolk in connection with the issuance for **Sentara Healthcare** and its affiliates (the “Applicants”) of not to exceed \$230,000,000 of the Authority’s Health Care Facilities Revenue and Refunding Bonds to assist the Applicant to finance or refinance the construction and equipping of a new bed tower **at Sentara Leigh Hospital**, to advance refund certain obligations of Sentara’s affiliates, to fund any required reserves and to pay costs of issuance relating to such bonds,” was introduced in writing and read by its title.

George Consolvo, 150 West Main Street, Ste 2100, was present to answer questions.

ACTION: The Resolution as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-6

Letter from the City Manager and a Resolution entitled, “A Resolution approving the **Recreation Master Plan** for the City of Norfolk, dated September 2010,” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-7

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving a License Agreement between **Wal-Mart Supercenter #5488** and the City of Norfolk, as Licensee, for the use of a portion of property described as **7530 Tidewater Drive**, and authorizing the City Manager to execute the License Agreement,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-8

Letter from the City Manager and the following two Resolutions:

R-8A

A Resolution entitled, “A Resolution related to the proposed **Old Dominion Electric Cooperative Coal-Fired Power Plant in Surry County**,” was introduced in writing and read by its title.

R- 8B

A Resolution entitled, “A Resolution related to the proposed **Old Dominion Electric Cooperative Coal-Fired Power Plant in Surry County**,” was introduced in writing and read by its title.

The following proponents spoke in support of opposition and construction of the ODEC Plant: Joe Cook, 1147 Surrey Crescent, Albert Burchkard, 12303 Titus Point Lane, Carrollton, VA, Chris Moore, 8812 Commodore Drive, Chesapeake Bay Foundation, Kathryn Wilson, 328 Fairfax Avenue, David Crandall, 1608 Rich Avenue, Ellis James, 2021 Kenlake Place, Phillip Gillette, 1205 Westover Avenue, Apt 5, Joseph Filipowski, 627 Maryland Avenue, David Potvin, 1032 Redgate Avenue, Fred Bashara, 6048 East Wood Terrence, Sharon Hart, 15219 Newbill Lane, Carrollton, VA, Chris Nelson, 1585 Wesleyan Drive, Chris Holbrein, 1602 Clairmount Avenue, Apt 1, James McPherson, 2901 Bainbridge Blvd, Chesapeake, VA, Steve Clayton, 421 West Bute Street.

The following opponents spoke in favor of ODEC Plant being constructed: Dr. Robert Martinez, 600 Botetourt Gardens, Norfolk Southern Corporation, David Hudgins, 4201 Dominion Blvd., Glen Allen, VA, Old Dominion Electric Company, David Smith, 4201 Dominion Blvd, Glen Allen, VA, Director of Environmental Safety, Old Dominion Electric Company, Thomas Byrd, 230 Park Avenue, Dendron, VA, Ernest Blount, 5336 Rolfe Avenue, Dendron, VA, Surry Board of Supervisors, Dendron District, John Seward, 1195 Colonial Trail East, Suffolk, VA, and Dan Montague, 4605 Krick Street.

R-8 **A motion was made to continue this matter for 30 days (May 22, 2012).**

ACTION: MOTION LOST.

Yes: Burfoot, Riddick, Williams, and Frain.

No. Protogyrou, Smigiel, Whibley, and Winn.

R-8A Thereupon the Resolution was read by its caption.

ACTION: The Resolution as introduced was **LOST**.

Yes: Burfoot, Riddick, Williams, and Frain.

No. Protogyrou, Smigiel, Whibley, and Winn.

R-8B Thereupon the Resolution as amended was read by its caption.

ACTION: The Resolution as introduced was **adopted**, effective April 24, 2012.

Yes: Burfoot, Riddick, Williams, Winn, and Frain.

No. Protogyrou, Smigiel, Whibley.

